August 21, 2002

NEPA Task Force PO Box 221150 Salt Lake City, UT 84122 FAX: (801) 517 1021

Re: Comments on NEPA Task Force's Improvement and Modernization of NEPA Analysis and Documentation

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Dear NEPA Task Force:

The Mt. Ashland Association (MAA) submits these comments in response to CEQ's Notice and Request for Comments published in the *Federal Register* on July 9, 2002 on the NEPA Task Force's efforts to improve NEPA analysis and documentation. We welcome the efforts of CEQ to address the important issue of NEPA reform and appreciate the opportunity to comment.

The MAA operates a small community owned ski and snowboard resort under a Special Use Permit with the U.S. Forest Service (USFS) and serves southwest Oregon and far northern California. Our facility, the Mt. Ashland Ski Area (MASA) is comprised of a day lodge, a ski rental/retail shop building, four chairlifts, and approximately 114 acres of alpine trails. We have served the area since 1963 and are known to our region as the "small, friendly ski area with steep, challenging terrain." In 1992, the local communities rallied to purchase MASA with private donations and an Oregon state economic development grant. The ski area became a community-owned, 501 c (3) non-profit corporation.

MAA's existing special use permit consists of approximately 980 acres of National Forest System land. Of these 980 acres, lift-served skiing utilizes approximately 114 acres. The total area encompassed by the runs and facilities is 238 acres. As such, MASA uses approximately 25 percent of its permit acreage to provide valuable quality winter recreation to about 90,000 National Forest visitors each year, over the course of a 4.5-month ski season.

The MAA has extensive experience in the NEPA process as do most public lands ski areas. Frankly, much of that experience has been negative and clearly exposes many areas requiring NEPA reform. We have the following comments on the NEPA processes involving Mt. Ashland, which illustrate some shortcomings of current NEPA implementation.

NEPA Processes Take So Long and are so Unpredictable that Strategic Business Planning is Seriously Compromised

As required by our USFS Special Use Permit, to make intelligent business plans for the future, and to make modest improvements to the ski area in order to match the needs of the local communities, the former owners of the Mt. Ashland Ski and Snowboard Resort (MASA) developed a Master Plan and submitted the proposal for NEPA analysis. Though the process was relatively non-controversial, the process from proposal to FEIS and ROD took over 5 years (until 1991), which so seriously impacted the ability of the owners to make and utilize effective business plans, that they decided to sell the ski area in 1992.

In 1994, When the MAA made it's first site-specific proposal based on the 1991 Master Plan (for an environmentally-friendly wastewater treatment facility), the USFS started a CE, moved to an EA, and eventually approved the project via a revised EA, which, after administrative and legal appeal, delayed the project by 3 years from the original business plan.

The appeal process in itself is an unreasonable time consuming process. If the agency is doing its job with full regional office involvement prior to the release of the NEPA document, there is no reason to waste time and effort with an administrative appeals process. If the appellant is truly serious, then they will pursue a legal appeal. Many projects not destined for legal appeal could move forward in a slightly timelier basis.

We are also concerned that the agency, often after *years* of comprehensive NEPA work on a project, may actually decide *not* to defend their actions in court, leaving a project to die. It is critical that the NEPA analysis have sufficient support form all levels of the agency so that each decision can hold up to legal scrutiny.

For a Variety of Reasons, the USFS Has Unreasonably Required Multiple EIS Processes

The current NEPA process to analyze our site-specific proposal to add some limited skiing terrain and improved support facilities was originally planned to be an EA, changed to an SEIS, then to a full EIS, and now to a **second** EiS despite the fact that an EIS was already completed to approve the Master Plan in 1991. This was in part the result of changing laws and rules (such as the Northwest Forest Plan) that added complexities during the course of the long analysis time, and in part due to the agency's efforts to make the document "appeal-proof". Fear of appeals, as opposed to sound decision-making, has led the agency to attempt to "cover all the bases" in search of a nearly impossible consensus. In our case, someone will surely file an appeal regardless of how detailed or voluminous the environmental analysis is. The USFS must stop letting fear of appeals dictate how much, and which type, of information they will require in the NEPA process.

<u>Lack of Coordination Between Federal Agencies Has Resulted in Duplication of</u> Work and Unnecessary Analysis

The regional offices of the USFWS and EPA each provided a comment on the *first* DEIS. These comments were received after the official comment period, and, due to a lack of coordination *during* the EIS analysis, led to extensive additional analysis. In fact, the EPA comments directly led to the decision to produce the *Revised* DEIS presently being completed by the agency.

The complexity of the NEPA process requires extensive coordination between agencies who must coordinate or consult with one another on parts of the analysis. There appears to be no system in place to assure this coordination takes place at all, much less that it is timely or effective. This system is required to both provide better analysis and avoid what amounts to sabotage of an entire process!

The USFS Unnecessarily Responds to Out-of Scope Comments

During public scoping of proposed actions, the USFS received numerous comments that are far outside the scope of the proposal. Yet, the agency, trying to be as responsive as possible, addresses and analyzes all of these comments. In some instances, alternatives are developed to address issues raised in scoping even though the alternative proposal does not meet the Purpose and Need for the proposed action, nor responds to legitimate *issues*. The USFS needs to manage issues better, specifically by dismissing issues outside the scope of the analysis early in the process, and by not developing alternatives which do not meet the stated Purpose and Need. The *first* draft EIS prepared for our proposal had two action alternatives. The comments from that draft, which in large measure formed the scoping for the present second draft EIS, have helped to drive *five* action alternatives, when the issues clearly should have driven no more than one additional alternative. Each alternative, whether meeting purpose and need or not, or whether they are even *feasible*, adds significant costs in both dollars and time, which the proponent must absorb.

Mt. Ashland's Future is At Risk

For the needed improvements at MASA, we worked diligently to craft a very tight purpose and need statement. We tried to help place the USFS in a position whereby they could issue a defensible decision, based on our purpose and need statement, and our conservative approach to addressing the existing deficiencies of our ski area. The decision to require such a tortuous NEPA process was, and continues to be, a disservice to the MAA. The costs of the process (MAA costs will be close to 3/4 million dollars if/when the analysis is complete.) are terribly out of proportion with the scale of the project. This is especially disheartening because it has significantly compromised our organization's ability to implement programs and improvements that will improve the

overall quality of our ski area, and may also make it difficult to begin implementation of the proposal once approved! The economic viability of our ski area will be determined by the final outcome of our NEPA process.

I thank you for your consideration of these comments.

Best regards,

Jeffrey B. Hanson General Manager